

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

ANNUAL COMPLIANCE REVIEW, 2017

Docket No. ACR2017

**RESPONSE OF UNITED STATES POSTAL SERVICE TO ORDER NO. 4377,
WITH PORTIONS FILED UNDER SEAL**
(January 24, 2018)

The United States Postal Service (Postal Service) hereby files its response to Order No. 4377, in which the Postal Regulatory Commission (Commission) at its own behest preliminarily determined that the material that the Postal Service filed in Response to Chairman's Information Request (CHIR) No. 1, question 1 should be unsealed.¹ A response was due no later than January 24, 2018.

Because portions of this response describe information customarily submitted under seal, the Postal Service hereby provides a redacted version of this pleading and is also furnishing an unredacted version of this pleading under seal. Attached to the Postal Service's Annual Compliance Report (ACR), filed December 29, 2017, was the Application for non-public treatment, which is hereby incorporated by reference.²

The Postal Service's response to CHIR No. 1, question 1, which the Postal

¹ In Order No. 4377, the Commission noted that in a prior order in Docket No. R2018-1, the Commission had "encouraged 'the Postal Service to provide *publicly* available Inbound Letter Post revenue data by country group and shape in its FY 2017 Annual Compliance Report.'" PRC Order No. 4377, Notice of a Preliminary Determination to Unseal the Material Filed in Response to Chairman's Information Request No. 1, Question 1, Docket No. ACR2017, January 17, 2018, at 2.

² In response to the Commission's direction, in Order No. 4377, at 4, that the response "identify any third party who is known to have a proprietary interest in the aggregated Inbound Letter Post data," this response includes commercially sensitive information regarding non-public Inbound Letter Post revenue by country group and shape for a UPU Designated Operator (also listed in the ACR2017 in Appendix 1 to Application for non-public treatment for impacted party No. 16),

Service filed under seal as part of USPS-FY17-NP31 on January 12, 2018, displayed the revenue for Inbound Letter Post by Universal Postal Union (UPU) Country Group and UPU Shape Format for FY2016.³ In Order No. 4377, the Commission stated that “[b]ecause the data [responsive to CHIR No. 1] is aggregated, the Commission expected that the concerns that have typically caused disaggregated versions of the same data to be filed non-publicly would have been alleviated by the aggregation of data.”⁴

The Postal Service does not share the Commission’s initial impressions on the sensitivity of the data in question, and thereby urges the Commission to withdraw its self-initiated effort to unseal the information. Below, the Postal Service identifies the nature or extent of commercial harm that may result from public disclosure and the likelihood of such harm, provides a specific hypothetical illustrative example of the alleged commercial harm, and explains why the data implicate third party interests.

In the Postal Service’s view, the Inbound Letter Post revenue data by country group and shape at issue here consist of disaggregated information of a commercial nature, which under good business practice would not be publicly disclosed. This information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2) and 5 U.S.C. § 552(b)(3), and in certain cases, (b)(4). Moreover, this information is confidential within the broader shipping services market.

Disclosure of the requested non-public materials could result in significant commercial harm to the Postal Service, negatively affecting the Postal Service’s ability

³ See Responses of the United States Postal Service to Questions 1-16 of Chairman’s Information Request No. 1, Docket No. ACR2017, January 12, 2018.

⁴ PRC Order No. 4377, at 3.

to compete in the inbound shipping services market. It is important to keep in mind that there is no publicly available information on inbound letter post volumes by shape, even at an aggregated level. The Postal Service operates in a competitive market for inbound international shipping, which includes inbound small packets containing merchandise. There are currently almost 200 Extraterritorial Office of Exchanges (ETOE) operating worldwide, about forty of which are located in the United States.⁵ These ETOE operators compete for business in the same markets as the Postal Service, including letter post mail. In addition, there are a number of private-sector international mailing operators that compete with USPS for certain portions of the inbound package market, offering products similar to inbound small packets.

The Postal Service would be at a disadvantage if the Inbound Letter Post revenue data by country group and shape at issue here were shared with third parties, particularly major competitors and suppliers in the shipping industry. Disclosure of the non-public materials in the instant docket would have negative effects on the Postal Service's shipping services business, and ultimately, its overall financial health.

As an illustration, by revealing this very specific information of the Postal Service's Inbound Letter Post revenue data by country group and shape, the Commission would be making public, information that could be used by competitors to direct their sales efforts worldwide, resulting in competitive harm to the Postal Service. Competitors could also use the Inbound Letter Post revenue data by country group and shape to analyze the Postal Service's possible market strengths and weaknesses and

⁵ See UPU, International Mail Processing Centres, 108b_IMPC_Open_offices.xlsx, available at <http://www.upu.int/en/activities/standards/impcs.html>.

to focus sales and marketing efforts on those areas, to the detriment of the Postal Service. Finally, as explained in greater detail below, disclosure would expose Inbound Letter Post information of other postal operators. The Postal Service considers these to be highly probable outcomes that would result from public disclosure of the material filed nonpublicly.

The Commission claims in Order No. 4377 that “because the Inbound Letter Post revenue data is aggregated by country group and shape, the data [are] distinguishable from the disaggregated Inbound Letter Post revenue data discussed in the Application for Non-Public Treatment” filed in this docket.⁶ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

By revealing this very specific information concerning the Postal Service’s Inbound Letter Post revenue data by country group and shape, the Commission would, in effect, be disclosing [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁶ PRC Order No. 4377, at 3.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Finally, we note that the effort to unseal the information is self-initiated, and was not prompted by any movant. Moreover, participants are not necessarily denied access to this information if they are able to certify to the Commission's protective conditions and address any other concerns raised by third parties. Hence, no participant should be prejudiced by perpetuating the status quo in this matter.

In view of the potential risks, the Postal Service respectfully requests that the material filed in response to CHIR No. 1, question 1 remain non-public and that the Commission not proceed with its self-initiated request to unseal the information.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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